



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-436

Appeal P-9200786

Ministry of the Solicitor General and Correctional Services



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ORDER

BACKGROUND:

The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to any complaints, other than those initiated by the requester, against a named officer of the Ontario Provincial Police (the OPP). The records identified by the Ministry as being responsive to the request consist of documentation generated from the investigation of four complaints made by persons other than the requester against a named OPP officer. The Ministry denied access in full pursuant to section 21(1) and of the Act. The requester appealed the decision.

Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant, the Ministry and the named OPP officer (the affected person). Written representations were received from the Ministry and the affected person only.

ISSUES

The issues arising in this appeal are:

- A. Whether the information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 21(1) of the Act applies.
- C. Whether the discretionary exemption provided by section 14(2)(a) of the Act applies.

SUBMISSIONS/CONCLUSIONS

ISSUE A: Whether the information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.

The definition of "personal information" in section 2(1) of the Act provides, in part, as follows:

"personal information" means recorded information about an identifiable individual, including,

...

(d) the address, telephone number, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except where they relate to another individual,

- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

In its written representations, the Ministry submits that the information contained in the records is recorded information about identifiable individuals other than the requester.

The Ministry provided a list of the types of personal information contained in the records that would be collected during the course of investigating a complaint from a member of the public. These include the names, addresses, statements and correspondence of complainants; information about the affected person that would reveal other personal information about the complainants; duty reports from both civilian employees and police officers of the OPP relating to the circumstances of the complaint; statements obtained from other individuals in the course of the investigation; and recommendations/conclusions with regard to the outcome of the complaint investigation.

Having reviewed the records, I find that some of them relate to police matters that are unrelated to complaint investigations involving the affected person, and that these records are not responsive to the appellant's request and fall outside the scope of this appeal.

As far as the remaining responsive records are concerned, I find that they all contain the personal information of the affected person. I also find that some of the documents which make up each complaint file, such as statements from the complainant and relevant witnesses, qualify as the personal information of both the affected person and other identifiable individuals. None of the records contain the personal information of the appellant.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 21(1) of the Act applies.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances. In my view, the only potential circumstance applicable in this appeal is section 21(1)(f), which reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Because section 21(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that the section 21(1)(f) exception applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

In the circumstances of this appeal, the only representations I have been provided with weigh in favour of finding that the section 21(1)(f) exception does not apply. In the absence of any evidence or argument to the contrary, I find that the mandatory exemption provided by section 21(1) of the Act applies.

Because of the way in which I have disposed of Issues A and B, it is not necessary for me to consider Issue C.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Tom Mitchinson
Assistant Commissioner

March 26, 1993